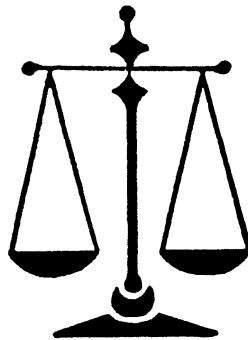


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**A SUMMARY OF SELECTED BILLS
TRULY AGREED TO AND FINALLY PASSED**

**by the
83rd General Assembly
Second Regular Session**

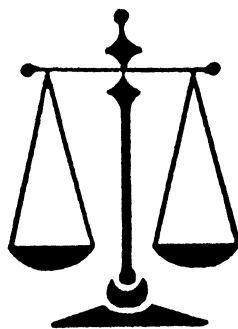


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**Prepared By
Office of State Courts Administrator
July 1986**

**A SUMMARY OF SELECTED BILLS
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83rd General Assembly
Second Regular Session**



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INTRODUCTION

In their role of interpreting the statutes of Missouri, judges have a potential interest in almost any bill enacted. However, for this synopsis certain bills have been selected which appear to have a direct impact on the workload or procedures of the courts or which appear likely to come to the attention of the courts within a short time. The individual summaries cover the major points of the bills or those sections that affect the courts, but they do not address every issue in each bill and should not be read as a substitute for reading the bill in the context of the entire chapter in the statutes.

Except for the bills marked "vetoed", all bills included in this summary have been signed by the Governor. Signed bills become effective August 13, 1986, unless otherwise indicated.

For a copy of any bill, please direct your request to:

Senate Bill Room
State Capitol
Jefferson City, Missouri 65101

House Post Office
State Capitol
Jefferson City, Missouri 65101

Staff of the Office of State Courts Administrator are willing to assist you in obtaining further information about any of the legislation.

HOUSE BILLS

HB 860 EMERGENCY CARE LIABILITY

Repeals Section 190.195 RSMo 1978, and Section 537.037 RSMo Supp. 1984, relating to liability for emergency care or assistance, and enacts in lieu thereof one new section relating to the same subject.

Extends the protection of the good samaritan law to include licensed mobile emergency technicians and limits the civil liability of any person providing first aid consistent with his level of training.

HB 867 VEHICLE EQUIPMENT

Repeals Section 307.172 RSMo 1978, relating to certain motor vehicle equipment requirements, and enacts one new section relating to the same subject with penalty provisions.

Relates to certain motor vehicle equipment requirements; makes it a class C misdemeanor to modify certain vehicle parts, including bumpers. This bill restricts the vehicle modifications that are performed to create "elevated pickups".

CCS/SS/SCS/HCS/HBs 873 & 874 HIGHWAY PATROL CRIMINAL HISTORY REPORTING AND CRIME VICTIM'S IMPACT STATEMENT AND VICTIM'S AND WITNESSES' RIGHTS

Repeals Sections 57.103, 57.105 and 57.403, RSMo 1978, relating to certain criminal procedures, and enacts nineteen new sections relating to the same subject.

The first part of this act contains the provisions of HB 1413, the "Highway Patrol Criminal History Reporting" bill. Under provisions of this act clerks will be required to submit certain criminal arrest, charge and disposition information to the Highway Patrol central repository "as soon as possible but not later than 30 days after the criminal history event." This information shall include: all judgments of not guilty; judgments or pleas of guilty including the sentence, if any, or probation, if any; nolle pros; discharges; and dismissals in the trial courts.

Clerks shall furnish, at the time of commitment or assignment, court disposition and state offense cycle numbers of any offense which results in the commitment or assignment of an offender to the Department of Corrections.

After sentence is pronounced, prosecuting attorneys shall ask the court to order a law enforcement agency to fingerprint all sentenced persons who have not previously been sentenced for the same case. The following types of offenses are not considered reportable: disturbing the peace, curfew violation, loitering, false fire alarm, disorderly conduct, nonspecific charges of suspicion or investigation, and general traffic violations and all misdemeanor violations of the state wildlife code. Second and subsequent violations for driving under the influence of drugs or alcohol are reportable.

The provisions of this section are not to apply to juvenile offenders unless certified to stand trial as an adult.

Records required to be filed with the central repository under the provisions of this bill must be filed on standard forms supplied by the Highway Patrol beginning January 1, 1988.

The second part of this bill contains provisions of the original Crime Victim's Impact Statements and the Victims' and Witnesses' Rights bills that were combined in HBs 873 and 874.

Provides for a pre-sentence investigation of anyone convicted of a felony or misdemeanor which resulted in serious physical injury or death to the victim to be conducted by the probation and parole board and considered by the court, unless the court orders otherwise.

The investigation shall, in certain cases, include a victim impact statement which is to be considered by the court in determining the appropriate sentence and in entering any order of restitution to the victim.

The bill also affords victims and witnesses certain rights. While the responsibility for providing most of these rights lies with the probation and parole board or the prosecuting attorney, the courts are required to "cooperate" in securing these rights. In addition, the courts are required to work with the prosecuting attorney to inform victims and witnesses of procedures to be followed in order to apply for and receive any witness fees, and to provide a secure waiting area during court proceedings. Courts are required to return certain items of personal property and to provide victims and witnesses with the "prompt disposition of the case in which they are involved."

HB 895 PROSTITUTION

Repeals Section 567.010 RSMo Supp. 1978, relating to prostitution, and enacts one new section relating to the same subject.

This act provides for a technical change in the definition of deviate sexual intercourse to conform with the definition in the general sex crimes law (566.010).

HCS/HB 920 ADOPTION RECORDS

Repeals Section 453.120 RSMo 1978, relating to the maintenance and release of adoption records, and enacts two new sections relating to the same subject.

Provides for the opening of adoption records in those cases where both an "adopted adult" and the biological parent agree to make the identifying information available but ONLY AFTER CONSENT HAS BEEN SECURED FROM THE ADOPTIVE PARENTS (if not deceased or incapacitated) AND ONLY IN CASES WHERE THE ADOPTION WAS INSTITUTED OR COMPLETED AFTER THE EFFECTIVE DATE OF THIS ACT. This statute also provides for the presentation of non-identifying information.

A central registry in the Division of Family Services is established through which biological parents and adoptive adults may indicate their desire to be contacted by each other.

HB 931 RECORDER OF DEEDS BILLING PROCEDURES; MARRIAGE LICENSE FEE

Repeals Section 59.320 RSMo 1978, and Section 451.040 RSMo Supp. 1984, relating to the recorder of deeds, and enacts two new sections relating to the same subject.

Permits recorders of deeds to bill political subdivisions and their offices rather than requiring prepayment. Other parties must pay the fee at the time the record is made. The fee for a marriage license is increased from \$5 to \$10 and application for such must be signed in the presence of the recorder of deeds or their deputy.

CCS/SS/SS/SCS/HCS/HBs 942, 1116 & 1369 LIEN LAW

Sections 429.010, 429.012 and 429.080 RSMo 1978, relating to mechanics', materialmen's and suppliers' liens are repealed, and five new sections relating to the same subject are enacted.

429.010 The changes in this section are of a technical nature only; there is no effect on procedure.

429.012 Retains the requirement that written notice of the possibility of a lien must be provided to owners and creates the crime of lien fraud, a class B misdemeanor applicable to "any original contractor who fails to provide this written notice... with the intent to defraud." It also provides that "any contractor who knowingly issues a fraudulent lien waiver shall be guilty of a class C felony." This section does not apply to new residences with title insurance.

429.013 This section applies only to the improvement, repair or remodeling of owner-occupied residential property of four units or less. It provides that a lien by anyone other than the original contractor may not be filed unless consent has been given by the owner wherein the owner agrees, in writing, to be liable for such costs in the event they are not paid. Contractors must provide a copy of both the notice in Section 429.012 and the above mentioned agreement to any materialman or subcontractor upon request. Any lien claim must be accompanied by the signed consent form for it to be valid. In the absence of said signed consent, full or partial payment shall act as a defense against a lien claim. Falsification of this consent form with intent to defraud is a class C felony as is the issuance of a fraudulent consent of owner by any original contractor.

429.080 This section contains changes in claim filing schedules; creates the crime of lien fraud and establishes a claim against original contractors who fail or refuse to pay subcontractors and materialmen.

Section 1 - Lien fraud is a class C felony if the amount is in excess of \$500.00, otherwise it is a class A misdemeanor.

SCS/HS/HCS/HB 953 CHILD CARE PROVIDER SCREENING

Repeals Sections 210.150, 210.800, 210.805, 210.809, 210.814, 210.819, 210.826, 210.830, 210.835, and 210.837 RSMo Supp. 1985, relating to the protection of certain minors, and enacts in lieu thereof one new section relating to the same subject.

This act repeals all of the child care provider screening requirements contained in Sections 210.800-210.837 Supp. 1985. Section 210.150 is revised to remove the requirement that licensed child care entities, juvenile courts, schools and state agencies examine the central child abuse registry for information concerning employees and volunteers and replaces that requirement with an option to examine the registry.

Information is also available to any state agency involved in administrative actions relating to child care licensures.

HB 969 JAIL COSTS

Repeals Section 221.105 RSMo Supp. 1984, relating to the cost of incarceration of certain persons, and enacts one new section relating to the same subject.

This act increases the per diem cost paid by the state to counties or St. Louis City to the actual cost of incarceration but no more than \$14. The state shall also pay a per diem cost for a person incarcerated in the county jail because his parole

or probation has been revoked or because he allegedly violated any condition of his probation or parole and such parole or probation is a consequence of a violation of a state statute. This bill becomes effective January 1, 1987.

HCS/HB 1098 MINIMUM SENTENCES

This act provides that certain prior offenders, classified as a "prior offender", "persistent offender" or "class X offender", depending on the number of previous felonies, must serve a minimum prison sentence. Prior offenders, those who have previously pleaded guilty to or been found guilty of one felony, must serve 40% of their sentence; persistent offenders, those who have previously pleaded guilty to or been found guilty of two felonies committed at different times, must serve 60%; and class X offenders, those who have previously pleaded guilty to or been found guilty of three felonies committed at different times, must serve 80%. This does not apply to a person if 25 or more years have passed since a previous guilty plea or verdict or release from the Department of Corrections. In addition, a life sentence shall be calculated to be 50 years, and any sentence either alone or in the aggregate with other consecutive sentences for crimes committed at or near the same time which is over 75 years shall be calculated to be 75 years.

A defendant who is not a prior, persistent or class X offender and who has pleaded guilty to or been found guilty of a felony and sentenced to life imprisonment must serve a minimum of 15 years. This bill shall become effective January 1, 1987.

HB 1101 SEWAGE DISPOSAL SYSTEMS

This bill, relating to the regulation of certain sewage disposal systems, has a provision for the issuance of a temporary restraining order and injunction in those cases where it is determined necessary in order to protect the health and welfare of the public.

CCS/SS/HCS/HBs 1121, 1082 & 1248 TERMINATION OF PARENTAL RIGHTS AND ADOPTION

Repeals Sections 453.040 and 454.060 RSMo Supp. 1985, relating to adoption, and enacts two new sections relating to the same subject.

Amends §453.040 to provide two additional circumstances under which a parent's consent is not required for the adoption of a child: where the parent has a certain mental condition or where the parent has willfully abandoned the child for a certain period of time. Amends §453.060 to correct sectional reference regarding service of summons and copy of petition. Signed by the Governor on March 25. This bill has an emergency clause.

HB 1158 MANDAMUS TO ENFORCE A REQUEST FOR A SPEEDY TRIAL

Repeals Section 545.780, RSMo Supp 1984, relating to certain criminal trials and enacts one new section relating to the same subject.

This act allows the issuance of a writ of mandamus to enforce a defendant's request for a speedy trial. Neither the failure to comply with this section nor the state's failure to prosecute is grounds for dismissal, unless the court also finds the defendant's constitutional right to a speedy trial has been denied.

HCS/HB 1164 TRAINING PROGRAMS FOR CORONERS

Repeals Sections 58.160, 58.170, 58.205, 58.375 and 58.480 RSMo 1978, Sections 58.135, 58.451, 58.455, 67.130 and 67.133 RSMo Supp. 1984, and Section 67.134 RSMo Supp. 1985, relating to county officials, and enacts nine new sections relating to the same subject.

County coroners and deputy coroners are included in the list of county officials receiving increased compensation from the "County Officers Compensation Fund".

Note: Section 67.134 was also amended in Senate Bill 763. The two versions are different. Senate Bill 763 extends until 1988 the collection of fees for the "County Officers Compensation Fund". Section 67.134 of HB 1164 terminates the collection of such fees on January 1, 1987.

HB 1190 REGULATION OF VEHICLES

Repeals Section 301.390 RSMo Supp. 1984, relating to the regulation of vehicles, and enacts one new section relating to the same subject, with penalty provisions.

Changes the penalty in Section 301.390 RSMo Supp. 1984, relating to the regulation of vehicles, from a class A misdemeanor to a class D felony.

HB 1261 ANNEXATION

Repeals Sections 71.015 and 80.030 RSMo 1978, and Sections 71.012 and 71.014 RSMo Supp. 1984, relating to annexation procedures for certain cities, towns and villages, and enacts three new sections relating to the same subject.

Eliminates the requirement that the governing body of a city seeking to annex property must obtain authorization from the circuit court.

HB 1288 TRUSTEE POWERS

Repeals Section 456.520 RSMo Supp. 1984, relating to certain trustee powers, and enacts one new section relating to the same subject.

Revises the powers of trustees by adding the ability to invest trust assets in United States government obligations, with certain limitations.

Note: Section 456.520 was also amended in House Bill 1410 and reads differently. Please read both carefully.

HB 1297 PROCEDURAL CHANGES IN CERTAIN ADVERSARY PROBATE PROCEEDINGS

Repeals Sections 472.140 and 472.141 RSMo 1978, relating to probate, and enacts two new sections relating to the same subject.

Delineates those occasions where an adversary probate proceeding shall be governed by the probate code or other statutes rather than by the civil code of Missouri.

The provisions of chapter 509, RSMo and civil rule 55 will not apply unless so specified in the probate code or unless the court enters an order specifying that all or specific provisions of chapter 509 or civil rule 55 shall apply to a particular adversary probate proceeding.

The court may enter an order specifying the appropriate provisions of chapter 509 of civil rule 55 if a proceeding is determined to be adversarial after it has commenced.

HB 1353 MARTIN LUTHER KING DAY

Repeals Sections 9.010, 9.020 and 9.022 RSMo Supp. 1984, relating to public holidays, and enacts two new sections relating to the same subject. Effective August 13, 1986.

Establishes the third Monday of January as "Martin Luther King Day".

The public holidays which are now observed on primary and general election days are abolished.

HB 1372 LIBRARIES

Repeals Section 182.050 RSMo 1978, and Section 570.200 RSMo, as enacted by SB 450, which passed in 1986, and enacts four new sections relating to the same subject.

Provides that no library shall be required to release or disclose all or part of a library record to any person unless in response to a written request of the person identified in that record or in response to a court order when necessary to protect the public safety or to prosecute a crime.

HB 1384 BAIL BONDS

Repeals Section 544.640 RSMo 1978, relating to bail bonds, and enacts two new sections relating to the same subject, with a termination provision.

Section 544.640 relating to judgments on bail bond forfeitures is amended to provide that the hearing and judgment on a bond forfeiture shall not take place sooner than 90 days after the date of forfeiture. The clerk shall hold the forfeited amount in escrow for a period of up to twelve months or until the defendant is surrendered.

Interest earned on the money in escrow is to be deposited by the clerk according to the law applicable to fines.

Provides for setting aside of all, or a portion, of the forfeiture if the defendant is surrendered by the surety within twelve months of the forfeiture. If the defendant is surrendered by the surety within ninety days of the forfeiture, the forfeiture shall be set aside, and the clerk shall return all moneys held in escrow to the surety. If the defendant is surrendered after ninety days, but within six months of the date of forfeiture, the court may direct the issuance of execution on no more than fifteen percent of the amount deposited in escrow and the remainder shall be returned to the surety. If the surrender occurs after the six months, but before twelve months from the date of the forfeiture, the court may direct the issuance of an execution on no more than thirty percent of the amount deposited in escrow and the remainder shall be returned to the surety.

If the surety fails to surrender the defendant within twelve months of the date of forfeiture, the court may issue execution on the entire amount in escrow.

The second section of this bill establishes the Sentencing and Bonding Practices Study Commission to study circuit court sentencing and bonding practices. The provisions applying to the commission terminate on January 15, 1989.

HB 1410 TRUSTS

Repeals Section 428.010 RSMo 1978, and Sections 456.080, 456.520, 456.530, 456.540, 456.600, 456.720, 456.730, 456.740, 456.770, 456.780 and 456.800 RSMo Supp. 1984, relating to trusts, and enacts thirteen new sections relating to the same subject.

The changes in this bill are mainly technical. They include provisions regarding the conveyance of assets for the purpose of defrauding creditors; the deposition of funds in savings and loan associations and credit unions as well as banks; the restriction of personal expenses by a trustee other than the settlor acting as sole trustee; the requirement for a hearing if certain beneficiaries do not consent to the appointment of a named proposed successor trustee; the distribution of current income to an income beneficiary; the payment of interest to certain litigants if not distributed within twelve months; the carryover of certain net profits and losses; and provisions regarding the classification of payments from benefit plans.

SCS/HB 1422 UTILITY ACCESS

Enacts eight new sections relating to providing utility companies access to utility meters in multi-family residential dwellings.

Enacts provisions relating to the court entering an initial access order, service of the same on the utility customer, right of the customer to request a hearing on the order, posting of a bond by the customer and the order becoming a final order of access. The act establishes hearing procedures, procedures to carry out the access order and provides for a damage award should the court find that the utility company "willfully and wrongfully instituted an action". Other rights of access currently available to the utility company are not affected by this bill, with certain specified exceptions. Appeals are allowed and conducted in the manner provided in Chapter 512 RSMo, but no application for appeal shall stay execution unless an appropriate bond is provided by the utility customer.

HB 1454 MARRIAGE LICENSES

Repeals Section 451.040 RSMo Supp. 1984, relating to marriage, and enacts one new section relating to the same subject.

Eliminates the three day waiting period for a marriage license unless an associate circuit or circuit judge orders it enforced.

HB 1456 CRIMINAL CONVERSATION

Repeals Section 516.140 RSMo Supp. 1985, and enacts two new sections.

Abolishes the common law cause of action for criminal conversation.

SCS/HCS/HB 1479 CHILD SUPPORT ENFORCEMENT

Repeals Sections 287.260 and 513.455 RSMo 1978, Sections 452.345, 452.350, 452.370, 452.375, 454.405, 454.410, 454.415, 454.420, 454.425, 454.430, 454.435, 454.440, 454.445, 454.450, 454.455, 454.460, 454.465, 454.470, 454.485, 454.495, 454.500, and 454.505 RSMo Supp. 1984, and Sections 301.650 and 454.400 RSMo Supp. 1985, relating to establishing and enforcing support obligations, and enacts thirty-eight new sections relating to the same subject, with penalty provisions.

This act creates the "Division of Child Support Enforcement" within the Department of Social Services. It establishes provisions for the determination of support delinquency and procedures for collection and income withholding. It also provides for the creation of various liens including those against decedent's estates, motor vehicles and workmen's compensation. For a detailed review of this bill, please see the Addendum, p. 27.

SS/SCS/HCS/HB 1496 RETIREMENT

Repeals Sections 169.130, 476.450, and 476.545 RSMo 1978, Sections 104.090, 104.100, 104.110, 104.354, 104.371, 104.372, 104.374, 104.395, 104.415, 104.436, 104.450, and 104.612 RSMo Supp. 1984, and Sections 104.310, 104.370, 104.400, 104.140, 104.470, 104.610, and 104.615 RSMo Supp. 1985, and Section 104.340 as enacted by senate committee substitute for house bill no. 790 of the first regular session of the eighty-third general assembly, as both such Sections 104.340 are found in RSMo Supp. 1985, and Section 104.515 as enacted by senate committee substitute for house bill no. 790 of the first regular session of the eighty-third general assembly and section 104.515 as enacted by house bill no. 670 of the first regular session of the eighty-third general assembly, as both such Sections 104.515 are found in RSMo Supp. 1985, relating to certain retirement systems, and enact in lieu thereof twenty-seven new sections relating to the same subject.

This act amends several sections dealing with the Missouri State Retirement System. Three additional options are offered to members with regard to payment of actuarial equivalents of annuities to designated persons, and employees with at least 30 years of creditable service are permitted to retire at age 55.

The compensation of special commissioners in the judicial system is increased to 40% of the salary until January 1, 1988, to 45% of the salary between January 1, 1988 and December 31, 1988, and to 50% of the salary on January 1, 1989. Thereafter, retirement benefits are to increase annually by at least 4%, but not more than 5%, to a maximum cumulative increase of 65%.

Supreme Court judges may retire with full benefits at age 65 after 8 years or at 62 with 12 years. These provisions terminate June 30, 1989.

This is a very complex act which merits reading in full; those interested are urged to study the bill and consult with MOSERS (314-751-2342) about individual provisions or if there are questions.

HCS/HB 1502 CARE OF DEPENDENT CHILDREN

Repeals Sections 207.020 and 211.181 RSMo Supp. 1984, relating to the custody and care of homeless, dependent or neglected children, and enacts two new sections relating to the same subject.

207.020 Provides that, before obtaining custody of homeless, dependent or neglected children, the Division of Family Services (DFS) must evaluate and examine the child and determine appropriate services and treatment for him. A written report of the findings is to be submitted to the court. Also, provides that the Division of Family Services may, under certain conditions, apply to the court to be relieved of custody of the child. The court, upon application, must make a determination within ten days. No payments for care shall be made by DFS to facilities with which the division has no contract, or to unlicensed facilities (unless exempt from such licensure) or facilities outside the state except in certain specified circumstances.

211.181 Contains a provision stating that the court shall not order any specific treatment plan or payment for services contrary to the above mentioned provisions and that the court may, upon application by the division, "relieve the division... of custody, care or supervision of any child for whom the division...cannot provide adequate care, treatment or services."

Provisions are also enacted to stipulate that a person, organization or agency charged with the supervision of a child by court order shall be immune from certain suits under certain circumstances.

HB 1578 GRAIN DEALERS

Repeals Sections 411.100, 411.120, 411.140, 411.255, 411.260, 411.283, 411.285, 411.287, 411.290, 411.311, 411.371, 411.517, 411.519, 411.661 and 411.661 RSMo 1978, and Sections 276.401, 276.406, 276.411, 276.421, 276.426, 276.431, 276.436, 276.441, 276.446, 276.451, 276.461, 276.466, 276.501, 276.511, 276.536, 411.012, 411.020, 411.026, 411.070, 411.151, 411.180, 411.220, 411.266, 411.271, 411.275, 411.280, 411.325, 411.518 and 411.671 RSMo Supp. 1984, relating to grain dealers and warehouses, and enacts forty-six new sections relating to the same subject, with penalty provisions and an emergency clause.

This act makes extensive revisions in and defines, redefines and expands a number of words, terms and phrases relating to licensing responsibilities, examinations, bonding and insolvency of grain dealers and grain warehouses.

HB 1607 WORK SUPERVISORS OF PROBATIONERS ARE IMMUNE FROM SUIT

Repeals Section 559.021, RSMo Supp. 1985, relating to probation by circuit courts, and enacts one new section relating to the same subject.

Section 559.021 is amended to expand the list of those persons or entities who supervise a defendant performing free work as a condition of probation and who are immune from suit by the defendant to include any county or city, or any employee of such county or city.

SENATE BILLS

HCS/SB 424 MOTOR VEHICLE FINANCIAL RESPONSIBILITY LAW

Repeals Sections 303.010, 303.050, 303.060, 303.140, 303.220, 303.290, 303.330, 303.370 RSMo Supp. 1978, and 303.020, 303.030 and 303.040 RSMo Supp. 1984, relating to the maintenance of financial responsibility by owners of motor vehicles, and enacts eighteen new sections relating to the same subject.

This act provides that an owner of a vehicle shall not operate nor authorize anyone else to operate a vehicle unless the owner maintains financial responsibility for the vehicle.

Insurers issuing motor vehicle liability policies must furnish an insurer identification card for each vehicle. The Director of the Department of Revenue is directed to implement and enforce the provisions of this act.

Sections relating to the reporting of an accident involving an uninsured motorist are amended. Failure to maintain financial responsibility will subject the owner or operator to license and registration suspension and to a reinstatement fee. This bill becomes effective on July 1, 1987.

HCS/SB 450 CRIME AND CRIMINAL PROCEDURE

Repeals Sections 195.145, 195.170, 195.200, 491.015, 491.020, 569.100, 569.110, 569.120, 575.200 and 575.210 RSMo 1978, and Sections 217.690, 217.765, 455.010, 455.020, 455.030, 455.050, 455.080, 455.085, 544.216, 570.010 and 577.060 RSMo Supp. 1984, relating to certain crimes, criminal procedure and civil forfeiture for criminal activity and enacts forty-seven new sections relating to the same subject, with penalty provisions and an emergency clause.

Reenacts, with a few amendments, SB 156, the Criminal Procedure Bill which was passed by the first session but struck down by the Missouri Supreme Court because of a technical error. The provisions

of this act, which include the creation of the Criminal Activity Forfeiture Act, revisions in the adult abuse law and several new crimes, are detailed in an addendum to this report, p. 23.

This bill contains an emergency clause and became effective March 17, 1986.

SS/SB 451 PUBLIC DEFENDERS

Repeals Sections 600.021 and 600.090 RSMo Supp. 1984, relating to public defenders, and enacts three new sections relating to the same subject.

600.021 Removes the requirement that a public defender or assistant public defender resign his or her position upon becoming a candidate for nomination or election to any public office.

600.090 Creates a "Legal Defense and Defender Fund", the monies from which are to be used to train personnel of the public defender system for expert witness fees, depositions, certain travel expenses and other authorized expenses. The monies for this fund shall come from monies collected from persons represented by the public defender system who are able to pay part of the cost of their representation.

Section 1 - If the public defender commission has obtained a judgment against a parolee and that parolee subsequently becomes financially able to pay all or part of said judgment, he must do so as a condition of his continued parole.

CCS/HCS/SCS/SB 470 CHILD ABUSE REPORTING AND INVESTIGATION

Repeals Sections 210.145, 210.152 and 210.165 RSMo Supp. 1984, relating to child abuse and neglect, and enacts seven new sections relating to the same subject.

Modifies current law on reporting child abuse and neglect by: requiring the Division of Family Services (DFS) to record electronically all telephone reports received through the child abuse and neglect "hotline"; requiring DFS to attempt to obtain identifying information on anonymous callers; requiring DFS to contact the appropriate law enforcement agency upon receipt of child abuse information and to report follow-up information to the local prosecuting or circuit attorney; requiring investigations of educational neglect to be instituted within 72 hours; requiring DFS to report suspected cases of malicious or harassing reports to the prosecuting or circuit attorney; and requiring DFS to cooperate with the Highway Patrol and juvenile courts to develop investigative training programs for certain DFS personnel.

The legislation would also prohibit introduction of the information that a report had been made into a custody proceeding, but would permit the introduction of evidence from other sources.

210.152 - Amends requirements relating to the retention and removal of records on reports of abuse and neglect which are maintained by the Division of Family Services; enacts provisions requiring the division to notify the alleged perpetrator of the division's determination based on the investigation and specifies what the notice shall include; provides for judicial review in the circuit court if an alleged perpetrator is aggrieved by a decision of the division and states that "the court shall sustain the Division of Family Service's determination if such determination is supported by competent and substantial evidence and is not against the weight of such evidence." At the request of any party to the action, the court shall order the record of the proceeding to be closed. There is also a provision for de novo review in another division of the circuit court, but "no further appeal shall be available."

The intentional filing of a false report is a class A misdemeanor. If a previous conviction exists, it is a class D felony.

Establishes requirements for training Division of Family Service employees in the identification and treatment of child abuse and neglect. The Department of Public Safety is mandated to establish a special unit to investigate allegations of improper behavior by DFS staff, and procedures are established for this unit.

SB 493 HABEAS CORPUS IN CUSTODY PROCEEDINGS

Enacts one new section relating to certain habeas corpus proceedings.

Permits an appeal to the court of appeals in habeas corpus proceedings involving the custody of a minor child where there is no prior court order determining custody and provides that "Such appeal shall be expedited by the court in every manner practicable."

CCS/HCS/SB 513 HUMAN RIGHTS

Repeals Sections 213.010, 213.020, 213.025, 213.030, 213.100, 213.105, 213.110, 213.115, 213.120, 213.125, 213.127, 213.130, 296.010, 296.020, 296.030, 296.040, 296.050, 296.060, 296.070, 314.010, 314.020, 314.030, 314.040, 314.050, 314.060, 314.070 and 314.080 RSMo 1978, relating to certain discriminatory practices and related procedures, and enacts seventeen new sections relating to the same subject with penalty provisions.

This act revises many of the statutes relating to certain discriminatory practices and related procedures. Procedural changes in civil actions and in awarding court costs and attorney's fees are made. Noteworthy sections include:

213.095 Classifies the violation of certain orders of the Human Rights Commission as class C misdemeanors.

213.110 Provides for procedures to bring civil action against certain respondents named in complaints and stipulates provisions for relief, injunction, a restraining order, damage awards, and court costs and attorney's fee awards.

SB 523 VEHICLE LICENSING

Repeals Sections 301.341, 301.343, 301.345, 301.347 and 301.349 RSMo 1978, and Sections 302.181 and 304.022 RSMo Supp. 1984, relating to motor vehicles, and enacts two new sections relating to the same subject, with an emergency clause.

This bill pertains to emergency vehicles and motor vehicle licensing. In part, it requires the circuit court to issue a certified statement stating that the applicant (for a driver's license) is a member of a specified religious denomination which prohibits the release or use of identification numbers by members because it is contrary to their religious tenets.

"The director of revenue shall establish guidelines and furnish to each circuit court such forms as the director deems necessary to comply with this subsection. The circuit court shall not charge or receive any fee or court cost for the performance of any duty or act pursuant to [issuing such a certified statement]".

This bill contains an emergency clause and became effective May 15, 1986.

HCS/SCS/SB 572 PARI-MUTUAL RACING REGULATIONS

Repeals Section 262.270 RSMo 1978, and Section 262.260 RSMo Supp. 1984, and enacts twenty-nine new sections for the purpose of regulating pari-mutual wagering on horse racing, with penalty provisions and an emergency clause. The penalty provisions are as follows:

313.550 Anyone who fails to appear to testify when summoned before the Missouri Horse Racing Commission is guilty of a class A misdemeanor; false testimony before such commission is a class D felony.

313.610 Any organization conducting a horse race or race meeting at which pari-mutual wagering is conducted without a valid license...shall upon conviction be guilty of a class B felony.

313.660 Makes it a class C felony to engage in wagering activities outside the enclosure of a race track.

316.670 Makes it a class A misdemeanor to admit or allow to wager anyone under 18 years old.

316.680 Makes it a class B felony to enter a horse under a false name or out of its proper class.

313.690 Makes it a class B felony to alter or attempt to alter the outcome of a horse race or to engage in any corrupt act or practice.

313.700 Makes it a class B felony to administer certain drugs or medications to horses.

313.650 In addition, SB 572 provides for exclusive judicial review of certain decisions of the Horse Racing commission.

HCS/SCS/SBs 618 & 562 VICTIM'S STATEMENT

Repeals Section 559.036 RSMo 1978, Sections 557.026 and 558.041 RSMo Supp. 1984, and Section 552.040 RSMo Supp. 1985, relating to procedures for criminal offenses, and enacts seven new sections relating to the same subject.

552.040 Requires the head of a mental health facility to notify the prosecutor and sheriff of the county in which a committed person (who has been acquitted of a crime on the grounds of mental disease or defect) is detained in the event that such person escapes or leaves the grounds without permission.

557.026 Requires a presentence investigation of the impact on the victim to be conducted by the probation officer.

558.041 Permits the Department of Corrections to rescind "good time credit" given to an inmate by the department under certain circumstances.

559.036 Permits the court to extend the term of probation, but "no more than one extension of any probation may be ordered" and the total time of probation may not exceed 5 years.

Section 1 - Provides that prior to the acceptance of a plea bargain, or at sentencing in a felony case, the court is to allow the victim to appear personally or make a written statement relating to the facts of the case and any personal injury or financial loss incurred. Provision is made for a family member to appear if the victim is unable to appear. Prosecuting attorneys are responsible for providing notice to victims of their right to make a statement.

Section 2 - In felony cases, the court shall give notice of the time and place of the sentencing to the prosecuting attorney and a representative of the law enforcement agency. The prosecutor and a law enforcement agency representative may also appear at sentencing to provide relevant information to the court prior to the court's decision.

Section 3 - It is not admissible as evidence nor subject for argument in a criminal case that a person received any payment pursuant to Chapter 595 (Victims of Crimes Compensation and Services), if the person receiving such payment is a witness.

SS/SB 651 MISSOURI PERSONAL CUSTODIAN LAW

Enacts 16 new sections relating to personal custodians.

Permits an adult person who is not incapacitated to make revocable transfer of property to a personal custodian (any qualified adult person or financial institution) to hold and administer for the person as the beneficiary of the personal custodianship and specifies the provisions under which said property shall be administered. It also provides for the method by which the designation of a personal custodian and the transfer of property shall be made.

The probate division of the circuit court may hear and determine all matters pertaining to personal custodians and the administration of personal custodianships; is required to notify anyone affected by the appointment of a personal custodian; and is required to conduct a hearing if anyone protests. In certain circumstances approval of the court must be obtained before property is transferred to a personal custodian.

SB 663 MEDICAL MALPRACTICE

Repeals Sections 383.105 and 383.110 RSMo 1978, relating to health care providers, and enacts fourteen new sections relating to the same subject, with an emergency clause for certain sections and penalty provisions.

334.102 Establishes provisions for a hearing before the State Board of Healing Arts before the suspension or restriction of a physician's license.

383.105 Establishes procedures for the reporting of malpractice claims to the Division of Insurance by insurers and those who are self-insured.

Section 2 - Beginning on January 1, 1987, provides for the reporting of disciplinary and related actions by hospitals to the appropriate health care professional licensing authority. Beginning on January 1, 1987, certain physicians must carry at least \$500,000 in medical malpractice insurance.

A limit of \$350,000 per defendant is imposed on non-economic damages with a provision for an increase or decrease of this limit based on the cost of living.

Restrictions are placed on findings for punitive damages.

Provides for a method by which jurors must itemize an award.

Provides for the reduction of excessive awards by the court.

Places certain restrictions on instructions of the court and testimony of a counsel or witness in actions for damages in personal injury cases.

Provides for methods of payment distribution.

Provides for methods of apportioning fault by a judge or jury and for the awarding of damages.

Requires the filing of an affidavit with the court by the plaintiff regarding the validity of the claim.

The tort reform provisions of this act only apply to causes of action arising on or after the effective date of those sections.

Certain subsections of this bill contain an emergency clause and became effective February 3, 1986.

SCS/SBs 669, 700 & 737 NONSUFFICIENT FUNDS CHECKS

Repeals Sections 31.040, 143.121, 144.083, 144.320, 144.625, 144.640, 145.551, 148.065 and 149.051 RSMo 1978, Sections 32.065, 140.850, 144.032, 144.081, 144.190, 144.250, 148.461, 148.640 and 148.650 RSMo Supp. 1984, and Sections 32.067, 32.115, 144.030 and 144.087 RSMo Supp. 1985, relating to taxation, and enacts thirty new sections relating to the same subject, with penalty provisions and effective dates for certain sections.

Provides that civil and criminal suits against issuers of checks payable to the Missouri Department of Revenue which are returned because of insufficient funds or no account shall be commenced in either the county where the defendant resides or Cole County after a 30 day notice.

SB 672 TAMPERING

Repeals Section 569.090 RSMo Supp. 1984, relating to the crime of tampering in the second degree, and enacts one new section relating to the same subject.

Expands the crime of tampering in the second degree to include making a connection with the property of a utility.

HCS/SCS/SB 685 CHARITABLE SOLICITATIONS

Repeals Sections 407.010, 407.070, 407.120, 407.420, 407.705, and 556.036 RSMo 1978, Sections 407.521 and 407.800 RSMo Supp. 1984, and Sections 407.020, 407.030, 407.040, 407.060, 407.080, 407.100, 407.105, and 407.140 RSMo Supp. 1985, and enacts in lieu

thereof twenty-seven new sections for the purpose of regulating charitable solicitations and other merchandising practices, with penalty provisions and an emergency clause.

This act creates the "Charitable Organizations and Solicitations Law" under which the Attorney General is given the authority to regulate charitable solicitations with the purpose of reducing instances of fraud and misrepresentation. The act also makes various changes to the provisions of Chapter 407, RSMo, relating to merchandising practices.

SCS/SB 741 TRIAL DE NOVO; CIRCUIT AND ASSOCIATE CIRCUIT PROCEDURE

Repeals Sections 514.475 and 535.030 RSMo Supp. 1984, and Sections 517.011, 535.040 and 535.110 RSMo Supp. 1985, relating to circuit and associate circuit courts, and enacts seven new sections relating to the same subject.

512.190 and 512.310 Reestablishes the procedure for perfecting a trial de novo which would have been repealed January 1, 1987, pursuant to Senate Bill 5 from the 1985 legislative session.

514.475 In all counties which are required by law to hold circuit court in two cities and where a law library is maintained in each of the cities, the circuit judges may, by local court rule, require attorneys at the time of filing suit in the circuit court, to deposit with the clerk a sum not to exceed \$15.00, in addition to all other deposits required by law or court rule. Currently, this section applies only to second class counties.

517.011 Provides that the practices and procedures in civil cases before associate circuit judges shall apply "except where otherwise provided by law".

535.030 Technical wording changes relating to service of summons in civil cases. No effect on procedure.

535.040 Provides that an action by a landlord against a tenant for unlawful detainer need not be heard on the record.

535.110 Applications for a trial de novo and appeals in landlord-tenant actions shall not stay execution unless adequate security is provided to cover "the payment of all damages, costs and rent then due..." and "...to pay all subsequently accruing rent, if any, into court within ten days after it becomes due, pending determination of the trial de novo or appeal."

The provisions of this bill become effective January 1, 1987. Cases filed prior to January 1, 1987, shall be governed by the practice and procedures in effect on the date the case was filed.

SB 763 COUNTY OFFICIALS SALARY

Repeals Section 56.792 RSMo Supp. 1984, and Section 67.134 RSMo Supp. 1985, relating to the termination of certain compensation of county officials upon a stated date, and enacts two new sections relating to the same subject.

Extends the collection of the additional \$4.00 in court costs in most criminal and civil cases until January 1, 1988.

This bill also extends the salary increases provided for county officials by SB 601, passed in 1984, through 1987.

Note: Section 67.134 was also amended by HB 1164. The two versions are different. HB 1164 includes a termination date of January 1, 1987 for fee collection and salary provisions.

SB 787 PROBATE

Repeals Sections 472.010 and 475.097 RSMo Supp. 1984, and Sections 473.097 and 473.117 RSMo Supp. 1985, relating to the administration of estates, and enacts four new sections relating to the same subject.

472.010 Includes "children of a protectee who may have a property right or claim against or an interest in the estate of a protectee" in the definition section of the general provisions chapter of the probate code.

473.097 Provides for certain changes in what is meant by "property of the decedent". Excludes property held by a decedent as a tenant by the entirety or a joint tenant from the definition of "property of the decedent" when used in connection with distribution of the estate.

473.117 Permits a judge, clerk or deputy to serve as a personal representative for a decedent who was a spouse or in the third degree of relationship by consanguinity or affinity.

475.097 Grants a protectee, creditor and other interested persons the right to petition the court to appoint a guardian or conservator ad litem to represent the interest of the ward or protectee in any proceeding where there is a possible conflict of interest between the ward or protectee and the guardian or conservator.

This bill has an emergency clause and became effective June 3, 1986.

CCS/HS/HCS/SS2/SB 795 SCHOOL ATTENDANCE

Repeals Sections 167.031, 167.033, 167.061, and 167.071 RSMo 1978, and Section 210.167 RSMo Supp. 1985, relating to school attendance, and enacts five new sections relating to the same subject with an emergency clause.

This act allows children to be enrolled in a home school that meets certain standards.

Parents, guardians or other persons having charge, control or custody of a child who violate the provisions of the statute enumerating required standards are guilty of a class C misdemeanor. Provisions are made for the suspension and remission of fine or imprisonment if certain criteria are met.

ADDENDUM

SENATE BILL 450 CRIME AND CRIMINAL PROCEDURE

Repeals Sections 195.145, 195.170, 195.200, 491.015, 491.020, 569.100, 569.110, 569.120, 575.200 and 575.210 RSMo 1978, and Sections 217.690, 217.765, 455.010, 455.020, 455.030, 455.050, 455.080, 455.085, 544.216, 570.010 and 577.060 RSMo Supp. 1984, and enacts forty-nine new sections relating to crime, criminal procedure and civil forfeiture for criminal activity.

195.145 Amends provisions relating to the forfeiture of a vehicle, vessel or aircraft to include certain rights of parties, other than the defendant, who have an interest in the property.

195.170 Redefines the crime of fraudulently attempting to obtain a controlled substance and makes the violation of this section a class D felony.

195.200 Amends the punishment provision to require a first time offender to participate in a drug education program in lieu of, or in addition to, any punishment imposed. Attendance at a drug education program in lieu of any punishment shall be treated as a prior conviction in any subsequent prosecution.

217.690 The Board of Probation and Parole may in its discretion release on parole an inmate of a state correctional institution.

217.765 Authorizes the court revoking the probation or parole of a defendant to allow credit for all or part of the time on probation or parole. Authorizes the court to extend "any term of supervision for any person while on probation or parole."

221.110 Makes it a crime to knowingly deliver, attempt to deliver, have in possession, deposit or conceal any controlled substances, alcoholic type beverages, prohibited item of personal property, gun, knife, or weapon in or about the premises of a county correctional facility.

ADULT ABUSE ACT

Sections 455.010, 455.020, 455.030, 455.050, 455.080, and 455.085 relating to adult abuse cases are revised.

455.010 Broadens definition of "Abuse" to include: assault, battery, coercion, harassment, sexual assault and unlawful imprisonment, as defined in this section, and by stating that "Abuse includes but is not limited to...." the above mentioned acts.

455.020 Makes any order of protection issued under the provisions of Chapter 455 RSMo effective throughout the state in all cities and counties.

455.030 A petitioner seeking a protection order is only required to reveal an address or residence to the judge in camera for purposes of determining jurisdiction. A mailing address may be required unless such disclosure would prove dangerous to the applicant or his/her family.

455.050 In addition to what may now be requested under the law, this section allows the petitioner to request and the court to order the respondent to: make rent or mortgage payments, give the petitioner specified personal property; retain mutually owned or leased property; participate in a court approved counseling program; and pay a reasonable fee for housing that is being provided to the petitioner by a shelter for victims of domestic violence. In making awards of custody, placement of the child with the nonabusive parent is presumed in the best interest of the child unless there is evidence that both parents have been abusive. Visitation rights of the non-custodial parent may be denied by the court if no visitation can be arranged that would sufficiently protect the custodial parent from further abuse.

455.080 Requires law enforcement agencies to give the same priority to calls involving abuse or violation of protection orders as they give to other calls, establishes criteria to determine when immediate police response is required, and requires the police to inform victims of the availability of shelters.

455.085 Empowers law enforcement officers to arrest a person who fails to surrender custody of minor children pursuant to an order of protection.

Violation of a full order of protection or an ex parte order of protection with regard to abuse, child custody, or entrance upon the premises of the petitioner is a class A misdemeanor. For purposes of this subsection, in addition to actual service a party is deemed to have notice of an order of protection if presented with a copy of the order by a law enforcement officer responding to a call. Criminal prosecution is allowed for crimes arising out of the incident in which the protection order is violated.

OTHER PROVISIONS

491.015 Amends provisions relating to inadmissibility of evidence to include "... prosecutions under Chapter 566, or prosecutions related to sexual conduct in Chapter 568..." Exception to inadmissibility provision is also amended.

544.216 Amends "powers of arrests" provisions of this section to include members of Missouri State Highway Patrol.

565.065 Creates the crime of "unlawful endangerment of another", which is a class C felony, if an individual protects an enterprise for the production of a controlled substance by creating, setting up, building, erecting or using any device or weapon which causes or is intended to cause injury to a person.

569.025 Creates and defines the crime of "pharmacy robbery in the first degree", which is a class A felony.

569.035 Creates and defines the crime of "pharmacy robbery in the second degree", which is a class B felony.

569.085 Creates and defines the crime of "unlawful endangerment of property", which is a class C felony.

569.100 Lowers the amounts of damages necessary to commit the crime of property damage in the first degree from \$5,000 to \$750.00 in cases where the person knowingly damages the property and from \$5,000 to \$1,000 in cases where the damages were the result of an attempt to defraud an insurer.

569.110 Repealed and Section 569.120 is revised changing the crime of property damage in the third degree to property damage in the second degree, a class B misdemeanor.

570.200 through 570.215 Establish the crime of library theft which is a class C felony if involving \$150.00 or more, otherwise it is a class C misdemeanor. Enacts provisions relating to librarian's authority to detain persons. (Unlike last year's version, this section requires that there must have existed the "purpose to deprive" before a crime is committed.)

575.200 and 575.210 Adds attempted escape from custody to these provisions, as a class D felony.

577.060 Makes leaving the scene of an accident a class A misdemeanor. If the accident results in physical injury to another person, or more than \$1,000 in property damage, or if the defendant has a previous conviction for leaving the scene of an accident, it is a class D felony.

579.010 Deletes reference to cable television services from definition.

Section 2 Creates a new section which establishes procedures for changes of venue in criminal cases in Cole County, notwithstanding Supreme Court Rule 32.03.

Section 3 Makes it a class B felony to possess or use a metal-penetrating bullet during the commission of a crime.

CRIMINAL ACTIVITY FORFEITURE ACT

Sections 4 through 17 establish the "Criminal Activity Forfeiture Act" or "CAFA" which provides that property used or intended for use in the course of, derived from, or realized through criminal activity is subject to civil forfeiture.

Creates a definition section; provides for procedures to initiate a forfeiture proceeding including how to institute, contents of the petition, review of petition by the court, service on interested parties, and how to effect seizure.

Provides for rights of interested parties not named in the petition to become a party to the action and enacts provisions relating to possession of property by posting bond or sale of the property. Grants courts the authority to make any other disposition of the property as may be provided by state statute.

Section 8 - Allows any party to request a jury trial. Any party may bring one motion to dismiss; such motion must be ruled on within 10 days.

Section 9 - Provides for the rights of an "innocent party" with an interest in property subject to forfeiture.

Section 10 - Establishes procedures for protecting the rights of innocent parties by allowing the court to order the disposition of property following judgment of forfeiture. Disposition alternatives are provided.

Section 11 - With one exception, net proceeds of any sale or disposition shall be paid into general revenue.

Section 12 - Relates to title of the state to forfeited property upon entry of the final judgment. Also enacted are provisions relating to the initiating of court action if the property subject to forfeiture is rendered unavailable for forfeiture.

Section 13 - Creates a statute of limitations concerning the commencement of any action under this section.

Section 14 - Provisions of this act do not preclude any other civil remedies allowed by law. Remedies are supplemental, not mutually exclusive.

Section 15 - Authorizes the attorney general to enter into reciprocal agreements with other states which have similar provisions for the forfeiture of seized property and provides for the recognition by courts of Missouri of judgments rendered by other states with similar provisions.

Section 16 - Allows the investigating agency in any proceeding authorized in this act to file with the recorder of deeds of any county a CAFA lien notice. Contents, procedures, effect and notice requirements are addressed. No filing fee or other charge

shall be required as a condition for filing the lien notice. Section 16 also provides for action which may be taken in conjunction with any civil proceedings, responsibilities of a trustee who acquires knowledge that a proceeding has been initiated against a person for whom he holds legal or record title to real property, and the liability of a trustee.

Section 17 - Provides for term of lien notice, renewal of the notice, release of the lien notice and termination of the lien notice. The court's responsibility to set a hearing date and the time allowed to do the same, service of the order setting a date for hearing, hearing procedure, and conditions under which the court shall immediately enter an order releasing the lien notice are also addressed.

ADDITIONAL PROVISIONS OF SENATE BILL 450

Section 18 - Creates the crime of theft of cable television service.

Section 19 - Authorizes law enforcement officials of a county or municipality who are certified pursuant to Chapter 590 RSMo to respond to "emergency situations" outside the geographical boundaries of their authority. Authority must be authorized by ordinance.

Section 20 - Allows counties and municipalities to cooperate with one another in the formation of "major case squads" for the investigation of certain crimes.

Section 21 - Creates a system for tracking the location of persons released from the Department of Corrections on probation or parole. Said persons are required to report address changes to the board of probation and parole and to register with the chief law enforcement officer if residing in a new county.

HOUSE BILL 1479 CHILD SUPPORT ENFORCEMENT

Repeals Sections 287.260 and 513.455 RSMo 1978, Sections 452.345, 452.350, 452.370, 452.375, 454.405, 454.410, 454.415, 454.420, 454.425, 454.430, 454.435, 454.440, 454.445, 454.450, 454.455, 454.460, 454.465, 454.470, 454.485, 454.495, 454.500, and 454.505 RSMo Supp. 1984, and Sections 301.650 and 454.400 RSMo Supp. 1985, relating to establishing and enforcing support obligations, and enacts thirty-eight new sections relating to the same subject, with penalty provisions.

287.260 Enacts one new subsection relating to the assignment of workman compensation payments. All payments, except compensation

for medical and therapy expenses, are assignable and subject to attachment, garnishment and execution to satisfy unpaid child support.

301.650 Exempts child support or spousal support liens from the provisions relating to liens and encumbrances on motor vehicles and trailers as provided for under Sections 301.600-301.660 RSMo.

452.341 Obligors may request, from the person entitled to support, an affidavit attesting to the fact that the obligor is current with his/her support payments. If the obligor is current, the person entitled to the support shall, upon request, execute an affidavit. Failure to execute the affidavit within ten days of the request shall give the obliged party a cause of action against the person entitled to the support to recover damages. Also, the party may seek an order requiring the person to execute an affidavit. Executing a false affidavit is a class A misdemeanor.

452.345 Defines the term "IV-D case" to mean a case in which support rights have been assigned to the state (AFDC case) or in which the Division of Child Support Enforcement is providing support enforcement services pursuant to Section 454.425 RSMo (Non-AFDC case). Clarifies that no \$10 fee shall be charged for maintaining records for any IV-D case. Repeals the clerk's duty to send a delinquency notice to obligated parties that fail to make required payments and the subsequent certification of amounts due to the prosecuting attorney. Also repeals the prosecutor's duty to "...assist the court on behalf of the person entitled to receive maintenance or support in all proceedings initiated under this section to enforce compliance with the order". Enacts provisions that require the circuit clerk to send a notice to the obligor and the obligee for any case, except a IV-D case, "...if a party becomes delinquent in maintenance or support payments in an amount equal to one month's total support obligation..." The notice shall be sent to the obligor, if the clerk is trustee or if the obligee files with the clerk an affidavit stating the particulars of the obligor's noncompliance, and the notice shall advise the obligor of the delinquency, shall state the amount of the obligation, and that his/her income is subject to an income withholding. In addition to the notice to the obligor, the clerk shall send a notice to the obligee which includes information regarding the amount due, the availability of income withholding and the availability of child support enforcement services through the Division of Child Support Enforcement.

452.350(1) Repeals provisions requiring that each child support or maintenance order entered by the court contain a provision directing the person obligated to pay under the order to execute an income assignment. Enacts provisions requiring that each support order include a provision notifying the obligor that, upon application by the obligee or the Division of Child Support Enforcement, the obligor's income shall be subject to withholding, without further notice, if the obligor becomes delinquent in

an amount equal to one month's total support obligation. The order shall also include the stipulation that withholding shall be for the current month's support and an additional amount equal to fifty percent of one month's support to defray the delinquent amount.

452.350(2) Remains substantially the same as the current Section 452.350(3) RSMo.

452.350(3) Repeals most provisions relating to effecting the executed income assignment. Enacts provisions requiring the clerk, upon application of the obligee or the Division of Child Support Enforcement, to send, by certified mail, return receipt requested, a written notice to the employer or other payor listed on the application. The notice shall direct the employer/payor to withhold each month an amount equal to one month's support, plus an additional amount equal to fifty percent of one month's support, to defray arrearages. A statement of federal and state exemptions, which limits the withholding, shall accompany the notice. A copy of the notice shall be mailed, by regular mail, to the last known address of the obligor. The notice to the employer/payor is binding two weeks after mailing and shall continue in force until further order. Within that two-week period, the obligor may request a hearing on whether the withholding should take effect. The only basis for contesting the withholding is a "mistake of fact", defined as an error in the amount of arrearages or an error as to the identity of the obligor. The hearing, entering of the order and related service requirements shall occur within forty-five days of the date on which the withholding notice was sent to the employer.

452.350(4) Includes under the federal withholding limitations the fee which may be deducted by the employer from the obligor's income in addition to the amount deducted to meet the support amount.

452.350(5) Provides that, upon termination of the obligor's employment, the employer shall notify the court, in writing and, if known, inform the court of the last known address of the obligor, and the name and address of the obligor's new employer.

452.350(6) Provides that the employer shall transmit amounts withheld within ten days of the date that such amounts were to be paid to the obligor. Also, if the employer is withholding amounts for more than one order, and the amounts are payable to the same circuit clerk, the employer may combine all withholdings and transmit them as one payment, together with a list identifying the cases to which they apply.

452.350(7) Deletes reference to the state's authority to make application for an income withholding as provided under this section. The state is authorized under Section 452.350 to make application for income withholding.

452.350(8) Enacts provisions allowing an obligor who is aggrieved by an employer's action to bring a civil contempt proceeding against the employer. The action shall be filed in the court from which the withholding notice was issued. Also enacted are provisions regarding the court's action on the suit, and penalty provisions (fine) should the employer fail to comply with the notice or the court's order.

452.350(9) Substantially the same as current subsection.

452.350(10) Allows the court to terminate the withholding upon motion of the obligor, for good cause shown. The withholding shall not be terminated for the sole reason that the obligor has fully paid past due support.

452.350(11) In part, requires that, should more than one income withholding be served on an employer, the current child support obligation of the first served notice shall be satisfied first, and then current child support of subsequently served notices shall be satisfied in order of service. Thereafter, delinquent amounts shall be satisfied in the order of service, up to the applicable withholding limitations.

452.350(12) The new provisions of this bill apply to support orders entered prior to the effective date. Notwithstanding the absence of the notice provided for in Subsection 1 of this section and provided that prior notice from the circuit clerk is given to the obligor as required under Section 452.345.5 RSMo.

452.370 Provides that copies of motions to modify support obligations in IV-D cases shall be sent to the Director of the Division of Child Support Enforcement rather than to the prosecuting attorney.

452.375 When determining support obligations in joint custody cases, the court shall consider the same factors used in determining support in other dissolution proceedings.

454.400 Establishes the Division of Child Support Enforcement (DCSE) within the Department of Social Services and charges it with administering the state plan for child support enforcement.

454.405 Requires all counties to cooperate with the Division of Child Support Enforcement in enforcement of support orders by appropriating a sufficient sum of money to the prosecuting attorney and to the circuit clerk to enable those offices to perform any duty imposed under the law regarding support enforcement. Also, enables counties to share the costs of child support enforcement by entering into multiple county agreements.

454.415 Deletes the provision forbidding the imposition of a charge by the clerk on parties who have assigned support rights to the Division of Child Support Enforcement on behalf of the state. Provisions forbidding the imposition of a charge are found under other sections.

454.425 Repeals provisions relating to certain expenses incurred by a county under cooperative agreement to be construed as expenses incurred by the division.

454.430 Remains substantially the same.

454.435 Repeals provisions relating to action to be taken by the associate circuit judge in the event the prosecutor, upon receiving a referral, fails to initiate action to enforce a support order. Prosecuting attorneys may enter into a cooperative agreement or a multiple county agreement to prosecute any action necessary to secure support for anyone referred by the Division of Child Support Enforcement. In all cases where there is a cooperative agreement, if information is not filed or civil action begun within sixty days of receipt of the referral, the Division of Child Support Enforcement may demand return of the referral and the case file and the division may use any other attorney whom it employs or with whom it has a cooperative agreement to establish or enforce the support obligation.

454.450 Enacts changes regarding fees to be awarded, if a private attorney unknowingly collects support where an assignment of support to the division has occurred.

454.460 Defines "obligee", "obligor", and "state".

454.470 Amends provisions relating to the administrative order process, including administrative hearing procedure, contents of the administrative order, and service of the final order.

454.476 Enumerates procedures for the entering of an administrative order by the Director of the Division of Child Support Enforcement in accordance with a court order, thereby allowing the Division of Child Support Enforcement to effect an administrative income withholding order.

454.500 Requires that all administrative orders entered which are based on a court order shall be amended by the director of the Division of Child Support Enforcement to conform with any modifications made by the court that entered the court order.

454.505 Amends provisions relating to the process by which an income withholding is effected. The Division of Child Support Enforcement shall issue an administrative income withholding order if an arrearage exists on an administrative order. Enacts provisions relating to termination of the administrative order, priority of withholding if more than one withholding is served, termination of the employee and remittance of withholdings.

454.512 Delinquent support information will be reported to consumer reporting agencies on request of the Division of Child Support Enforcement.

In addition to the above noted revisions to Chapter 454 RSMo, this bill provides that a lien for unpaid child support may be placed on:

1. the obligor's share of a decedent's estate (Section 454.514);
2. motor vehicles, motor boats, outboard motors and trailers (Section 454.516);
3. worker's compensation benefits (Section 454.517);
4. any and all claims, counterclaims or suits at law (Section 454.518); and
5. any and all demands or rights of action for negligence or personal injury (Section 454.519).

513.445 Revises section relating to writs of execution. Enacts new provisions regarding levy, property exemption and claiming of the same, and release from execution.

516.107 Requires an action to determine paternity of a child to be brought before the child's 18th birthday.

Section 2 Enacts new provisions relating to the conveyance of real or personal property for the purpose and with the intent to delay, hinder, or defraud the person to whom a support obligation is owed. A petition may be filed to determine the purpose and intent of the conveyance.

Section 3 Establishes a process whereby the interest of one or more owners of any real or personal property held in joint tenancy with right to survivorship, or otherwise held in any form of joint interest, with exceptions, are subject to execution. This section applies only to the enforcement of judgment on orders for child support or maintenance. Equal interest is presumed unless the court determines otherwise. Section enacts provisions relating to relief from such an execution, actions to interplead, the burden of proof as to the claim of disproportionate interest, orders of the courts and assessing costs and attorney's fees.

Section 4 The provisions of the law, rule or regulation notwithstanding, equipment purchased by a county for child support enforcement purposes shall be the property of the county not the state.